

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mervin G. Wood on September 29, 2008.

The application has been amended as follows:

#### **The Abstract:**

On a separate sheet and as the last page of the specification, please insert the following Abstract:

#### **-- Abstract of the Disclosure**

The present invention relates to the use of metal complex compounds which have terpyridine ligands and contain at least one quaternized nitrogen atom as oxidation catalysts. The present invention relates also to formulations comprising such metal complex compounds, to novel metal complex compounds and to novel ligands. --

#### **The Claims:**

In claim 31, line 14, delete “-NR<sub>14</sub>R<sub>15</sub>”

In claim 31, line 31, after “above” delete “and the ring may be substituted”.

In claim 31, line 36, delete the text beginning with and including “and that...” and ending with and including the text "...Cl or I" in line 40.

In claim 43, line 5, delete "as described in" and insert – according to --.

In claim 46, line 16, delete "-NR<sub>14</sub>R<sub>15</sub>;"

In claim 46, line 33, after "above" delete "and the ring may be substituted".

In claim 46, line 38, delete the text beginning with "and that..." and ending with and including the text "...Cl<sup>-</sup> or I<sup>-</sup>" in line 42.

In claim 49, line 3, delete ", and L and Me are as defined in claim 46".

In claim 58, line 2, delete the text beginning with and including the first molecular structure and ending with and including the second molecular structure in line 3.

In claim 58, line 3, after "-NHCH<sub>2</sub>CH<sub>2</sub>N<sup>+</sup>(CH<sub>3</sub>)<sub>3</sub>;" insert – or --.

In claim 58, line 4, delete the text beginning with and including –

"N[CH<sub>2</sub>CH<sub>2</sub>N<sup>+</sup>(CH<sub>3</sub>)<sub>3</sub>]<sub>2</sub>..." and ending with and including the text "...-

N[CH<sub>2</sub>CH<sub>2</sub>CH<sub>2</sub>N<sup>+</sup>(CH<sub>3</sub>)<sub>3</sub>]<sub>2</sub>" in line 5.

In claim 60, line 2, delete "phenyl unsubstituted or substituted by C<sub>1</sub>-C<sub>4</sub>alkyl, C<sub>1</sub>-C<sub>4</sub>alkoxy, halogen, phenyl or hydroxyl;".

In claim 60, line 5, delete ", N(CH<sub>3</sub>)-NH<sub>2</sub> or -NH-NH<sub>2</sub>; amino; N-mono- or N,N-diC<sub>1</sub>-C<sub>4</sub>alkylamino unsubstituted or substituted by hydroxyl in the alkyl moiety, wherein the nitrogen atoms which are not bonded to one of the three pyridine rings A, B or C, may be quaternized".

In claim 60, line 13, delete "wherein the nitrogen atom can be quaternized".

In claim 60, line 15, delete ";" and insert -- , --.

In claim 60, line 18, delete "where" and insert -- wherein --.

In claim 60, line 19, delete "likewise" and insert – also --.

In claim 73, line 2, delete "of the formula (1').".

In claim 73, line 2, delete "corresponds to the" and insert – correspond to --.

In claim 73, line 3, delete "contains" and insert -- contain --.

**Cancel** claims 63-65.

#### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

Note that, Applicant's amendments, Applicant's arguments, and the Examiner's Amendment are sufficient to place the instant claims in condition for allowance. Of the references of record, the most pertinent is Schlingloff et al (US 7,161,005). Based on the Examiner's Amendment, Schlingloff et al does not disclose the claimed invention with sufficient specificity to constitute anticipation under 35 USC 102. Additionally, as correctly pointed out by Applicant in the remarks filed on 5/9/08, Applicant has filed a statement of common ownership with respect to US 7,161,005 which is sufficient to overcome any potential rejections under 35 USC 103 using US 7,161,005. Thus, US 7,161,005 is not sufficient reject the instant claims as prior art.

None of the references of record, alone or in combination, teach or suggest a metal complex, method of using such a metal complex, and composition containing such a metal complex as recited by the instant claims. Accordingly, since the prior art fails to teach such a metal complex, method of using such a metal complex, and composition containing such a metal complex as recited by the instant claims, the instant claims are deemed allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory R. Del Cotto/  
Primary Examiner, Art Unit 1796

Application/Control Number: 10/520,841  
Art Unit: 1796

Page 6

/G. R. D./  
September 30, 2008